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58342 7590 08/04/2009 WARREN A. SKLAR (SOER) RENNER, OTTO, BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE 19TH FLOOR CLEVELAND, OH 44115				
EXAMINER BELANI, KISHIN G				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/823,275

**Applicant(s)**

SVENSSON ET AL.

**Examiner**

KISHIN G. BELANI

**Art Unit**

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05/06/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This action is in response to Applicants' amendment filed on 05/06/2009.

**Independent claims 1 and 14 have been amended. Claims 1-21 are now pending** in the present application. The applicants' amendments to claims are shown in ***bold and italics*** and the examiner's response to the claim amendments is shown in **bold** in this office action. **This Action is made FINAL.**

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 2, 4, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Agraharam et al. (U.S. Patent Publication # 6,035,339).**

Consider **claim 1**, Agraharam et al. show and disclose a multimedia-messaging-content-capability-negotiation method (Abstract which discloses a method used by a

network information delivery device that automatically determines end-user information output requirements based on the end-user's profile; Fig. 1 that shows end-user receiving terminals 112 and 114 in contact with a network information delivery device 110 via LECs (Local Exchange Carriers) 102-104 and network 100, wherein a request by an end-user terminal 114 for transmission of a multimedia content is sent via LEC 102 (a first service) to the network information delivery device 110, which either retrieves the multimedia-messaging-content-capability-profile of the requesting terminal from a database 118 of such profiles or installs a program in the requesting terminal to extract such profile and transmit it to the device 110; column 2, lines 27-60 disclose the same details); comprising:

receiving, by a first service, of multimedia-messaging-content-capability information from a receiving end client **of a first user** (Fig. 1, LEC 102 (a first service) that receives multimedia-messaging- content-capability information from a receiving end client 114; column 4, lines 5-13 that describe a method for receiving such information from client 114 to LEC 102 by loading a program in the requesting end-user terminal 114 and executing it to collect the multimedia-messaging-content-capability information for the receiving end client 114 and transmit it to device 110 via LEC 102);

transmitting, by the first service, of the multimedia-messaging- content-capability information to a sending end client **of a second user** that originates a message (Fig. 1, LEC 102 (a first service) that sends multimedia-messaging-content-capability information from a receiving end client 114 **of a first user**, to the network information delivery device 110 **of a second user**; column 4, lines 5-13 that describe a method for

receiving multimedia-messaging-content-capability information from the receiving end client 114 via LEC 102; column 3, lines 26-36 disclose an alternate method wherein the profile information has previously been received and saved in a database 118, so the device 110 extracts such information from the database 118; column 2, lines 43-48 also disclose the same details; column 4, lines 31-43 which further disclose that the network information delivery device 110 may retrieve requested multimedia information from information database 108 or from sources connected to a second service LEC 106, thereby originating a message for transmission of the multimedia content to the requesting device 114); and

evaluating the multimedia-messaging- content-capability information by the sending end client in order to determine what contents to transmit to the receiving end client (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details; column 4, lines 31-43 which further disclose that device 110 determines the multimedia-messaging-content-capability information of the requesting device 114 by evaluating the received profile of device 114; Fig. 6, steps S1000-S1004 and column 5, lines 13-26 summarize different claim features and Figs. 7-9 and columns 5, line 27 through column 6, line 51 further show and disclose the details of these features).

Consider **claim 2**, and **as it applies to claim 1 above**, Agraharam et al. show and disclose the claimed method, further comprising:

transmitting, by a second service, of a message from the sending end client to the receiving end client (Fig. 1, LEC 104-106; column 4, lines 31-43 which disclose that the network information delivery device 110 may retrieve requested information from information database source 108, and transmit it via LEC 104 (a second service) to requesting device 114, or from other distant sources connected to LEC 106 (another second service) to the requesting device 114 via LEC 106; Fig. 6, step S1006 and column 5, lines 13-26 summarize different claim features and Fig. 10 and columns 6, lines 52-62 further show and disclose the details of this step); and wherein the message is adapted by the sending end client in accordance with the multimedia-messaging-content-capability information (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details; Fig. 6, steps S1002-S1004 and column 5, lines 13-26 summarize these claim features and Figs. 7-9 and columns 5, line 27 through column 6, line 51 further show and disclose the details of these features).

Consider **claim 4**, and as it applies to **claim 2 above**, Agraharam et al., further disclose the claimed method, wherein the second service operates in accordance with multimedia messaging services (MMS) (Fig. 1 that shows a second service (LEC 104 or 106) which transmits the requested multimedia data extracted (from the multimedia information source 108) via LEC 104 (or distant LEC 106) to the requesting device 114;

column 4, lines 5-43 further disclose that LEC 104-106 (second services) are capable of handling multimedia data).

Consider **claim 7**, and **as it applies to claim 1 above**, Agraharam et al., further disclose the claimed method, wherein the multimedia-messaging-content-capability information indicates that the receiving end client is adapted to receive multimedia messages (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details).

Consider **claim 8**, and **as it applies to claim 7 above**, Agraharam et al., further disclose the claimed method, wherein the message is in accordance with MMS (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details, thereby disclosing that the message is in MMS format).

**Claim 1** is also rejected under 35 U.S.C. 102(e) as being anticipated by **Lyenko et al. (U.S. Patent Publication # 7,089,319 B2)**.

Consider **claim 1**, Lyenko et al. show and disclose a multimedia-messaging-content-capability-negotiation method (**Fig. 4C that shows a network user 401 (a**

receiving end client) directly connecting to the content capturing component 100 (a sending end client) in a peer-to-peer fashion and copying a customized delivery-on-demand client into its web browsing application, and Fig. 4D that shows other receiving clients 402 and 403 connecting wirelessly to the sending end client 100; column 5, line 7 through column 6, line 57 describe the claimed method); comprising:

receiving, by a first service, of multimedia-messaging-content-capability information from a receiving end client *of a first user* (Figs. 4B-4C that show and column 9, line 61 through column 10, line 17 that disclose a dynamically mapped resource locator server 400 (a first service) that receives a search request from the network user 401 (receiving end client of a first user) to display a listing of video channels according to certain selection or search criteria, server 400 then lists the video channels matching the specified criteria, and after selection by the first user of the video channel of choice, server 400 redirects the first user's web browsing application to the delivery-on-demand client address, thereby disclosing receiving, by a first service, of multimedia-messaging-content-capability information from a receiving end client of a first user);

transmitting, by the first service, of the multimedia-messaging-content-capability information to a sending end client *of a second user* that originates a message (column 5, lines 59-65 which teach that the content capturing component monitors the network connection for incoming web browser based information requests, and on detection of such a request, after server 400 has redirected the



first user's web browsing application to the delivery-on-demand client address, the sending end client of a second user identifies the type of web browsing application in use at the receiving end client, creates a copy of delivery-on-demand client and optimizes it (based on the capability of the requesting client) for compatibility with the detected web browsing application in use, then downloads (originating a message) the optimized copy of delivery-on-demand client to the receiving-end-client of a first user, as shown in Fig. 4C; Note: the claim is not clear on originating a message by a sending end client, Lysenko et al. also shows and discloses that the sending end client originates a publishing type message (shown in Fig. 4A) to the server 400; column 8, lines 45-50 disclose these details); and evaluating the multimedia-messaging-content-capability information by the sending end client in order to determine what contents to transmit to the receiving end client (column 10, lines 55-65 which disclose that the content capturing component (sending end client of a second user) upon the initial web-based information request, will identify the web browsing application in use and create a copy of delivery-on-demand client that is optimized for use with the identified web browsing application, such that it is instantly compatible with every known type of generic web browsing application, thereby disclosing evaluating the multimedia-messaging-content-capability information by the sending end client in order to determine what contents to transmit to the receiving end client).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Bird et al. (European Patent Application Publication # EP 1 043 671 A2)**.

Consider **claim 3**, and as it applies to **claim 1 above**, Agraharam et al., show and disclose the claimed method, except further comprising opting, by the sending end client, to not send a message to the receiving end client.

In the same field of endeavor, Bird et al., disclose the claimed method, further comprising opting, by the sending end client, to not send a message to the receiving end client (in Bird et al. reference, paragraph 0065 which discloses that the message broker uses the specified requirements of the receiving end client before determining whether a particular subscriber should receive a message; further disclosing that in addition to the analyzing the multimedia processing capability of the receiving client, the processing by the message broker includes processing subscriber information requirements such as a requirement to be notified of the stock price of a company only when the stock price exceeds a threshold price, thereby disclosing not sending a message to the receiving client in case the content does not meet the receiving end client's capabilities or expectation).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to opt out, by the sending end client, by not sending a message to the receiving end client, as taught by Bird et al., in the method of

Agraharam et al., so as to reduce unnecessary network traffic by not transmitting the data that the receiving device cannot render, or the requesting user has no interest in.

**Claims 5, 6, 11, 14, 16 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)**.

Consider **claim 5**, and as it applies to **claim 1** above, Agraharam et al. disclose the claimed method, except wherein the first service operates in accordance with Wireless Village protocol (WV).

In the same field of endeavor, Nielson et al. disclose the claimed method wherein the first service (publishing the capabilities of a receiving terminal) operates in accordance with Wireless Village protocol (WV) (in Nielson et al. reference, paragraphs 0002, 0004 and 0023 which disclose that the first service uses Wireless Village protocol (WV)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to operate the first service in accordance with Wireless Village protocol (WV), as taught by Nielson et al., in the method of Agraharam et al., because it is the standard authorized protocol for multimedia content exchange between wireless devices.

Consider **claim 6**, and **as it applies to claim 2 above**, Agraharam et al., as modified by Nielson et al., further disclose the claimed method, wherein the first service operates in accordance with WV (in Nielson et al. reference, paragraphs 0002, 0004 and 0023 which disclose that the first service operates in accordance with WV (Wireless Village) protocol); and the second service operates in accordance with MMS (in Agraharam et al. reference, Fig. 1 that shows a second service (LEC 104 or 106) which transmits the requested multimedia data extracted (from the multimedia information source 108) via LEC 104 (or distant LEC 106) to the requesting device 114; column 4, lines 5-43 further disclose that LEC 104-106 (second services) are capable of handling multimedia data).

Consider **claim 11**, and **as it applies to claim 1 above**, Agraharam et al., as modified by Nielson et al., further disclose the claimed method, wherein the multimedia-messaging-content-capability information is included in a WV extension field for presence attributes for the receiving end client (in Nielson et al. reference, Fig. 4, presence indicator 50; paragraph 0064 which discloses that the presence indicator may be an indication of the "registration" presence attribute for the receiving end client that uses Wireless Village protocol to register with the first service).

Consider **claim 14**, Agraharam et al. show and disclose an end-to-end multimedia-messaging-content-capability-negotiation system (Abstract which discloses a network information delivery system that automatically determines end-user's

requirements for receiving multimedia messaging content based on the end-user's profile; Fig. 1 that shows end-user receiving terminals 112 and 114 in contact with a network information delivery device 110 via LECs (Local Exchange Carriers) 102-104 and network 100, wherein a request by an end-user terminal 114 for transmission of a multimedia content is sent via LEC 102 (a first service) to the network information delivery device 110, which either retrieves the multimedia-messaging-content-capability-profile of the requesting terminal from a database 118 of such profiles or installs a program in the requesting terminal to extract such profile and transmit it to the device 110; column 2, lines 27-60 disclose the same details); comprising:

receive multimedia-messaging-content-capability information from a receiving end client **of a first user** (Fig. 1, LEC 102 (a first service) that receives multimedia-messaging-content-capability information from a receiving end client 114 **of a first user**; column 4, lines 5-13 that describe a method for receiving such information from client 114 to LEC 102 by loading a program in the requesting end-user terminal 114 and executing it to collect the multimedia-messaging-content-capability information for the receiving end client 114 and transmit it to device 110 via LEC 102); and

transmit the multimedia-messaging-content-capability information to a sending end client **of a second user** that originates a message (Fig. 1, LEC 102 (a first service) that sends multimedia-messaging-content-capability information from a receiving end client 114, to the network information delivery device 110 **of a second user**; column 4, lines 5-13 that describe a method for receiving multimedia-messaging-content-capability information from the receiving end client 114 via LEC 102; column 3, lines 26-36

disclose an alternate method wherein the profile information has previously been received and saved in a database 118, so the device 110 extracts such information from the database 118; column 2, lines 43-48 also disclose the same details; column 4, lines 31-43 which further disclose that the network information delivery device 110 may retrieve requested multimedia information from information database 108 or from sources connected to a second service LEC 106, thereby originating a message for transmission of the multimedia content to the requesting device 114); and an MMS service, wherein the MMS service is adapted to transmit a message from the sending end client to the receiving end client (column 4, lines 31-43 which disclose that the network information delivery device 110 (providing an MMS service) may retrieve the requested multimedia information from information database 108 or from sources connected to a second service LEC 106, thereby originating a message for transmission of the multimedia content to the requesting device 114); and wherein the message is adapted by the sending end client in accordance with the multimedia-messaging-content-capability information (Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details; column 4, lines 31-43 which further disclose that device 110 determines the multimedia-messaging-content-capability information of the requesting device 114 by evaluating the received profile of device 114; Fig. 6, steps S1000-S1004 and column 5, lines 13-26 summarize different claim

features and Figs. 7-9 and columns 5, line 27 through column 6, line 51 further show and disclose the details of these features).

However, Agraharam et al. do not specifically disclose that the multimedia service is a WV service.

In the same field of endeavor, Nielson et al. disclose a WV service (paragraph 0002 that discloses using the Wireless Village (WV) protocol by a first service for Instant Messaging and Presence Services (IMPS)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a WV multimedia service, as taught by Nielson et al., in the system of Agraharam et al., so that the receiving terminal is still able to view the content of the wirelessly transmitted multimedia message despite its limited capabilities.

Consider **claim 16**, and **as it applies to claim 14 above**, Agraharam et al., as modified by Nielson et al., further disclose the claimed system, wherein the multimedia-messaging-content-capability information indicates that the receiving end client is adapted to receive multimedia messages (in Agraharam et al. reference, Figs. 3 and 4 that show the capability data of the receiving device 114 and corresponding format conversion of the multimedia data to match the receiving device's capabilities; column 3, lines 37-46 and column 4, lines 44-57 describe the same details).



Consider **claim 19**, and **as it applies to claim 14 above**, Agraharam et al., as modified by Nielson et al., further disclose the claimed system, wherein the multimedia-messaging-content-capability information is included in a WV extension field for presence attributes for the receiving end client (in Nielson et al. reference, Fig. 4, presence indicator 50; paragraph 0064 which discloses that the presence indicator may be an indication of the "registration" presence attribute for the receiving end client that uses Wireless Village protocol to register with the first service).

**Claims 9 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Heck et al. (US Patent Application Publication # US 2005/0064883 A1)**.

Consider **claim 9**, and **as it applies to claim 1 above**, Agraharam et al. disclose the claimed method, except wherein the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages.

In the same field of endeavor, Heck et al. disclose the claimed method, wherein the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages (Flowchart of Fig. 5, steps 202, 208 that shows that the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages; paragraph 0029 which discloses the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine from the multimedia-messaging-content-capability information that the receiving end client is not adapted to receive multimedia messages, as taught by Heck et al., in the method of Agraharam et al., so that the message sender can attempt to deliver the message portion by any other delivery method within the capabilities of the receiving end client.

Consider **claim 10**, and **as it applies to claim 9 above**, Agraharam et al., as modified by Heck et al., further disclose the claimed method, wherein the message is in accordance with short messaging service (SMS) (in Heck et al. reference, flowchart of Fig. 5, steps 210, 216 and 218; paragraph 0030 that discloses the same details).

**Claims 12 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Vitikainen et al. (US Patent Application Publication # US 2003/0065802 A1)**.

Consider **claim 12**, and **as it applies to claim 1 above**, Agraharam et al., disclose the claimed method, except wherein the multimedia-messaging-content-capability information is included in a user agent profile (UAprof) link in an information presence attribute of the receiving end client.

In the same field of endeavor, Vitikainen et al. disclose the claimed method, wherein the multimedia-messaging-content-capability information is included in a user

agent profile (UApof) link in an information presence attribute of the receiving end client (paragraph 0058 which disclose that if the mobile terminal supports WAP (Wireless Access Protocol) UAPof (User Agent Profile), the mobile terminal provides its detailed multimedia capabilities information according to the UAPof specification).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the multimedia-messaging-content-capability information in a user agent profile (UApof) link in an information presence attribute of the receiving end client, as taught by Vitikainen et al., in the method of Agraharam et al., so that the message sender can attempt to deliver the message by evaluating the capabilities of the receiving end client.

Consider **claim 13**, and **as it applies to claim 1 above**, Agraharam et al., as modified by Vitikainen et al., further disclose the claimed method, wherein the multimedia-messaging-content-capability information is included in a UApof element of a client information element of the receiving end client (in Vitikainen et al. reference, paragraph 0058 which disclose that when a subscriber requests a multimedia content from a web server, information about the requesting mobile server is also provided through the User Agent Header (UAHeader) field of the WSP (Wireless Service Provider) session, thus disclosing that the multimedia-messaging-content-capability information is included in a UApof element of a client information element of the receiving client).

**Claim 14** is also rejected under 35 U.S.C. 103(a) as being unpatentable over **Lysenko et al. (U.S. Patent Publication # 7,089,319 B2)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)**.

Consider **claim 14**, Lysenko et al. show and disclose an end-to-end multimedia-messaging-content-capability-negotiation system (**Fig. 4C that shows a network user 401 (a receiving end client) directly connecting to the content capturing component 100 (a sending end client) in a peer-to-peer fashion and copying a customized deliver-on-demand client into its web browsing application, and Fig. 4D that shows other receiving clients 402 and 403 connecting wirelessly to the sending end client 100**; column 5, line 7 through column 6, line 57 describe the **claimed method**); comprising:

receive multimedia-messaging-content-capability information from a receiving end client **of a first user (Figs. 4B-4C that show and column 9, line 61 through column 10, line 17 that disclose a dynamically mapped resource locator server 400 (a first service) that receives a search request from the network user 401 (receiving end client of a first user) to display a listing of video channels according to certain selection or search criteria, server 400 then lists the video channels matching the specified criteria, and after selection by the first user of the video channel of choice, server 400 redirects the first user's web browsing application to the delivery-on-demand client address, thereby disclosing receiving, by a first**

**service, of multimedia-messaging-content-capability information from a receiving end client of a first user);**

transmit the multimedia-messaging-content-capability information to a sending end client **of a second user** that originates a message (column 5, lines 59-65 which teach **that the content capturing component monitors the network connection for incoming web browser based information requests, and on detection of such a request, after server 400 has redirected the first user's web browsing application to the delivery-on-demand client address, the sending end client of a second user identifies the type of web browsing application in use at the receiving end client, creates a copy of delivery-on-demand client and optimizes it (based on the capability of the requesting client) for compatibility with the detected web browsing application in use, then downloads (originating a message) the optimized copy of delivery-on-demand client to the receiving-end-client of a first user, as shown in Fig. 4C; Note: the claim is not clear on originating a message by a sending end client, Lysenko et al. also shows and discloses that the sending end client originates a publishing type message (shown in Fig. 4A) to the server 400; column 8, lines 45-50 disclose these details); and**

an MMS service, wherein the MMS service is adapted to transmit a message from the sending end client to the receiving end client (Figs. 4A-4B, wherein Fig 4A shows and column 8, lines 45-50 disclose a message (to enroll its assigned video channel number) from the sending end client 100 to an MMS service (server 400), and wherein Fig. 4B shows and column 9, line 61 through column 10, line 17 disclose

**that a listing of video channels matching the specified criteria (including the published video channel of the sending end client 100) is displayed to the Internet user 401 (receiving end client);**

wherein the message is adapted by the sending end client in accordance with the multimedia-messaging-content-capability information (**column 10, lines 55-65 which disclose that the content capturing component (sending end client of a second user) upon the initial web-based information request, will identify the web browsing application in use and create a copy of delivery-on-demand client that is optimized for use with the identified web browsing application, such that it is instantly compatible with every known type of generic web browsing application, thereby disclosing that the message is adapted by the sending end client in accordance with the multimedia-messaging-content-capability information).**

However, Lysenko et al. do not specifically disclose that the multimedia service is a WV service.

In the same field of endeavor, Nielson et al. disclose a WV service (paragraph 0002 that discloses using the Wireless Village (WV) protocol by a first service for Instant Messaging and Presence Services (IMPS)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a WV multimedia service, as taught by Nielson et al., in the system of Lysenko et al., so that the receiving terminal is still able to view the content of the wirelessly transmitted multimedia message despite its limited capabilities.

**Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)** and further in view of **Bird et al. (European Patent Application Publication # EP 1 043 671 A2)**.

Consider **claim 15**, and as it applies to **claim 14** above, Agraharam et al., as modified by Nielson et al., show and disclose the claimed system, except wherein the sending end client may, responsive to receipt of the multimedia-messaging-content-capability information, opt to not send a message to the receiving end client.

In the same field of endeavor, Bird et al., disclose the claimed system, wherein the sending end client may, responsive to receipt of the multimedia-messaging-content-capability information, opt to not send a message to the receiving end client (paragraph 0065 which discloses that the message broker uses the specified requirements of the receiving end client before determining whether a particular subscriber should receive a message; further disclosing that in addition to the analyzing the multimedia processing capability of the receiving client, the processing by the message broker includes processing subscriber information requirements such as a requirement to be notified of the stock price of a company only when the stock price exceeds a threshold price, thereby disclosing not sending a message to the receiving client in case the content does not meet the receiving end client's capabilities or expectation).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a system wherein the sending end client may, responsive to receipt of the multimedia-messaging-content-capability information, opt to not send a message to the receiving end client, as taught by Bird et al., in the system of Agraharam et al., as modified by Nielson et al., so as to reduce unnecessary network traffic by not transmitting the data that the receiving device cannot render, or the requesting user has no interest in.

**Claims 17 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)** and further in view of **Heck et al. (US Patent Application Publication # US 2005/0064883 A1)**.

Consider **claim 17**, and **as it applies to claim 14 above**, Agraharam et al., as modified by Nielson et al., disclose the claimed system, except wherein the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages.

In the same field of endeavor, Heck et al. disclose the claimed system, wherein the multimedia-messaging-content-capability information indicates that the receiving end client is not adapted to receive multimedia messages (Flowchart of Fig. 5, steps 202, 208 that shows that the multimedia-messaging-content-capability information



indicates that the receiving end client is not adapted to receive multimedia messages; paragraph 0029 which discloses the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine from the multimedia-messaging-content-capability information that the receiving end client is not adapted to receive multimedia messages, as taught by Heck et al., in the system of Agraharam et al., as modified by Nielson et al., so that the message sender can attempt to deliver the message portion by any other delivery method within the capabilities of the receiving end client.

Consider **claim 18**, and **as it applies to claim 17 above**, Agraharam et al., as modified by Nielson et al. and Heck et al., further disclose the claimed system, wherein the message is in accordance with short messaging service (SMS) (in Heck et al. reference, flowchart of Fig. 5, steps 210, 216 and 218; paragraph 0030 that discloses the same details).

**Claims 20 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Agraharam et al. (U.S. Patent Publication # 6,035,339)** in view of **Nielson et al. (US Patent Application Publication # US 2006/0129643 A1)** and further in view of **Vitikainen et al. (US Patent Application Publication # US 2003/0065802 A1)**.

Consider **claim 20**, and **as it applies to claim 14 above**, Agraharam et al., as modified by Nielson et al., disclose the claimed system, except wherein the multimedia-

messaging-content-capability information is included in a user agent profile (UAProf) link in an information presence attribute of the receiving end client.

In the same field of endeavor, Vitikainen et al. disclose the claimed system, wherein the multimedia-messaging-content-capability information is included in a user agent profile (UAProf) link in an information presence attribute of the receiving end client (paragraph 0058 which disclose that if the mobile terminal supports WAP (Wireless Access Protocol) UAProf (User Agent Profile), the mobile terminal provides its detailed multimedia capabilities information according to the UAProf specification).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the multimedia-messaging-content-capability information in a user agent profile (UAProf) link in an information presence attribute of the receiving end client, as taught by Vitikainen et al., in the system of Agraharam et al., as modified by Nielson et al., so that the message sender can attempt to deliver the message by evaluating the capabilities of the receiving end client.

Consider **claim 21**, and as it applies to **claim 14 above**, Agraharam et al., as modified by Nielson et al. and Vitikainen et al., further disclose the claimed system, wherein the multimedia-messaging-content-capability information is included in a UAProf element of a client information element of the receiving end client (in Vitikainen et al. reference, paragraph 0058 which disclose that when a subscriber requests a multimedia content from a web server, information about the requesting mobile server is also provided through the User Agent Header (UAHeader) field of the WSP (Wireless

Service Provider) session, thus disclosing that the multimedia-messaging-content-capability information is included in a UAprof element of a client information element of the receiving client).

### ***Response to Arguments***

Applicant's arguments with respect to independent claims 1 and 14 and their dependent claims 2-13 and 15-21 have been considered but are moot in view of the new ground(s) of rejection.

However, the examiner, who has maintained the rejections of claims 1 and 14 based on the cited Agraharam et al. reference (for claim 1) and Agraharam et al., in view of Nielson et al. (for claim 14), but has added Lysenko et al. reference to also reject claim 1 and Lysenko et al., in view of Nielson et al., to reject claim 14, would like to respond to the arguments made against using Agraharam et al. reference, as discussed below:

The applicants argue that the system of Agraharam et al. is not a messaging system at all between two user client devices, just because sending device 110 is named a network terminal. The examiner has taken the position that any client terminal connected to a network may be considered as a network terminal. Therefore, sending device 110 can also be considered as a user client device. The applicants further argue that "the examiner has identified terminals 112 and 114 as end user terminals, but there is no exchange of any information between those two terminals in the system of Agraharam. Accordingly, because Agraharam does not disclose a messaging system

between end user clients at all, the system of Agraharam differs substantially from the claimed invention". The examiner begs to differ with this argument. Terminals 112 and 114 were identified by the examiner as two prototype **receiving** end user terminals, not a pair of receiving and sending end user terminals (114 and 110) that need to communicate between themselves.

The applicants further argue that in the system of Agraharam, the content-capability information may be extracted from a repository (database 118) or local cache (result of a program executed by the terminal 114 as obtained within the network information delivery device 110), thereby concluding that the content-capability analysis in the system of Agraharam is performed by a centralized network device, rather than at an end-user client terminal. The examiner respectfully disagrees with this assertion. There is no mention in the Agraharam of device 110 being a centralized network device. In fact, it downloads a program into the memory of the requesting receiving device 114 in order to determine all the capabilities of the receiving device, as required by the claimed system. If the program had previously been loaded and executed at the receiving device 114 and the capability results saved in the database 118 or cache memory of device 110, the capability analysis may be done based on the previously saved information, instead of reloading the program. Column 2, lines 48-51 in the Agraharam reference disclose that database 118 may be incorporated in the network information delivery device 110, which, therefore, is a local and not centralized capability analysis system.

The applicants also argue that device 110 of Agraharam is not the "sending end client that **originates the message**". The examiner would like to correct this statement by pointing out that the claim recites "sending end client that **originates a message**". In the Agraharam system (column 2, lines 43-60), the sending device 110 originates a message to retrieve the multimedia content from the information source 108 through LEC 104 and packages and delivers (generating a message containing the content) the multimedia content based on the information output requirements of the end user terminal 114. Thus there are two instances of "generating a message" by the sending device 110 in the Agraharam reference.

The applicants also argue that the transmitted content does not originate from within the network device 110. The examiner would like to state that the independent claims 1 and 14 have no such requirement listed within their claim text, only that a message may originate from the sending device, which the Agraharam reference clearly recites, as shown above.

Therefore, the examiner has concluded that the cited references of Agraharam et al. and Nielson et al. do adequately teach and disclose all the elements of claims 1 and 14, which therefore are deemed non-novel and anticipated (claim 1) by Agraharam et al. or obvious (claim 14) over Agraharam et al., in view of Nielson et al., and not allowable in their present amended form. The dependent claims 2-13 and 15-21 also remain rejected based on their dependency over the rejected base claims 1 and 14.

***Conclusion***

Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Art Unit: 2443

**Hand-delivered responses** should be brought to

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Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kishin G. Belani whose telephone number is (571) 270-1768. The Examiner can normally be reached on Monday-Friday from 6:00 am to 5:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-0800.

/K. G. B./  
Examiner, Art Unit 2443

July 24, 2009

/George C Neurauter, Jr./  
Primary Examiner, Art Unit 2443